



**CITY OF SUNNYVALE  
REPORT  
Administrative Hearing**

**May 11, 2005**

**SUBJECT:**           **2005-0275** – Application for on a 7,591 sq. ft. site located at  
                          **1207 Oxford Avenue** (near Robin Way) in an R-0 (Low-  
                          Density Residential) Zoning District. (APN: 198-40-022).

Motion               Use Permit to allow a seven-foot and six-inch high fence in  
                          the reducible front yard and up to a seven foot high fence  
                          without a signed neighbor agreement in the rear yard.

**REPORT IN BRIEF**

**Existing Site**           Residential  
**Conditions**

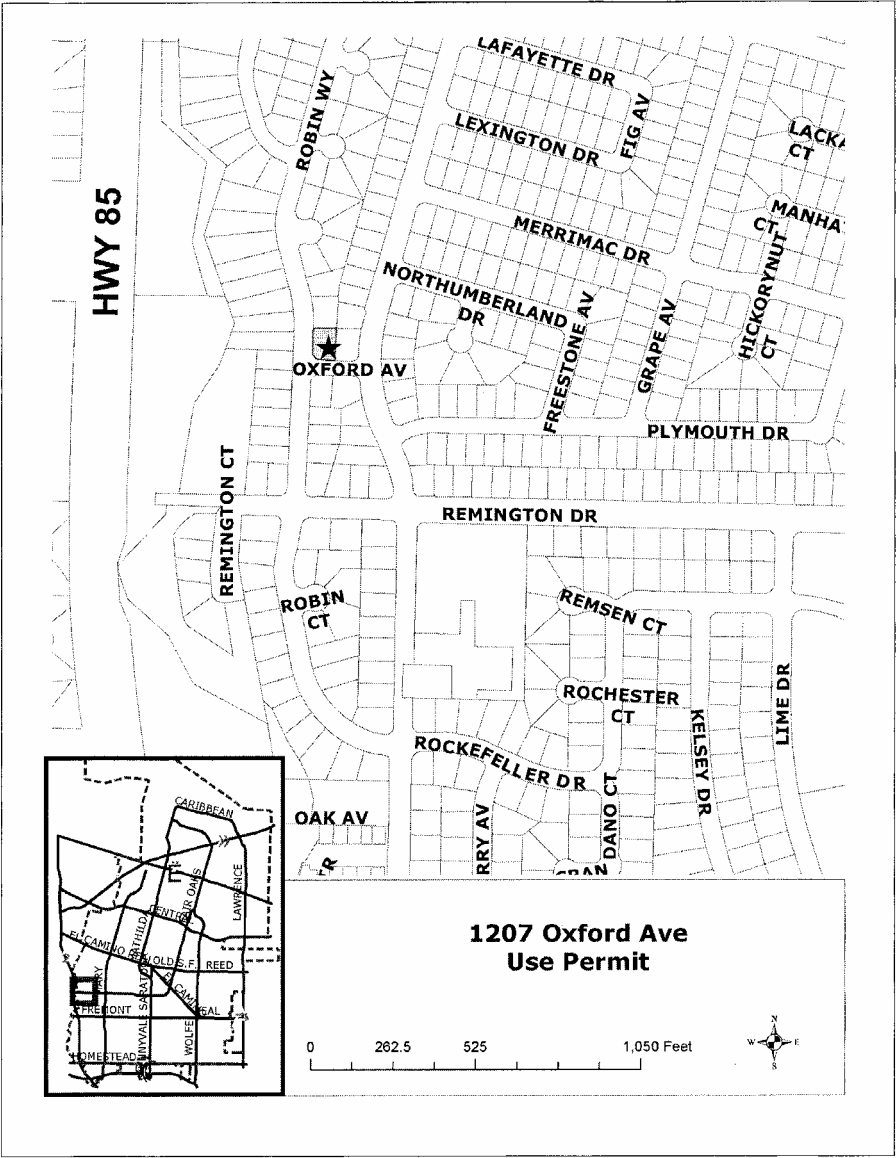
**Surrounding Land Uses**

North	Residential
South	Residential
East	Residential
West	Residential

**Issues**               Height of Fence

**Environmental**       A Class 11 Categorical Exemption relieves this project  
**Status**               from California Environmental Quality Act provisions  
                          and City Guidelines.

**Staff**               Approve with Conditions  
**Recommendation**



**PROJECT DATA TABLE**

	<b>EXISTING</b>	<b>PROPOSED</b>	<b>REQUIRED/ PERMITTED</b>
<b>General Plan</b>	Residential Low Density	Same	---
<b>Zoning District</b>	R-O	Same	---
<b>Lot Size (s.f.)</b>	7,591	Same	6,000 min.
<b>No. of Buildings On-Site</b>	1	Same	---

★ Starred items indicate deviations from Sunnyvale Municipal Code requirements.

**ANALYSIS****Description of Proposed Project**

The applicant is proposing a six foot tall fence to extend along Robin Way in the reducible front yard and up to a seven foot high fence without a signed neighbor agreement in the rear yard. Sunnyvale Municipal Code section 19.48.020(3) requires fences along public streets to be measured from the top of the nearest curb. Because of a one and a half foot grade differential between the top of the curb and the applicant's rear yard, the total height will be seven and a half feet, which requires a Use Permit.

From the perspective of the applicant's rear yard, the existing fence is only five feet tall in the reducible front yard and six foot high in the rear yard.

**Background**

The applicant was approved to construct a 7 foot high fence in the reducible front yard on March 24, 2005 through a Miscellaneous Plan Permit. Staff informed the applicant that the approved 7-foot high fence would be measured from the face of the nearest curb, resulting in an effective height of 5 and one-half feet when viewed from the applicant's rear yard. This Use Permit application was filed to request an additional foot be added to the allowable height of the fence. After measuring the height differential and discussions between staff and the applicant, the applicant has revised their request to build a seven and one-half foot high fence, which would allow for the additional 6 inches and an effective height of six feet when viewed from the rear yard.

**Environmental Review**

A Class 11 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines. Class 11 Categorical Exemptions include minor structures such as fences.

**Use Permit**

**Site Layout:** The site is a corner lot with the front of the home facing Oxford Street. The subject fence is located in the reducible front yard of the home along Robin Way and the rear yard of the property (northern boundary) adjacent to the neighbor's property. The applicant has proposed to replace an existing fence and to extend it further along the reducible front yard as well as replace the existing fence located along the rear yard. The proposed fence will be moved approximately two feet closer to the street and extend along the side of the existing public sidewalk.

**Architecture:** The proposed fence would look similar to the existing fence with a base kick-board, vertical board to make up the body of the fence and a one-foot lattice along the top to provide a decorative feature (see Attachments C).

**Compliance with Development Standards/Guidelines:** If the Use Permit is approved it would comply with zoning code standards and would require building permits for construction. Given the grade differential, the applicant will need to construct a retaining wall along the base of the reducible front yard fence and backfill with clean fill to maintain a level rear yard.

The effective height of the fence would be 6 feet high for the applicant, resulting in a 7 and a half foot high fence on the Robin Way side of the property (reducible front yard).

Along the rear yard, abutting the neighbor's property, the fence may be constructed up to seven foot tall. The Sunnyvale Municipal Code requires that fences between six and seven feet in height obtain the approval of the abutting neighbor through a neighbor agreement form submitted with the application for a staff reviewed permit or to have the design evaluated through a public hearing if no agreement is provided. As the applicant did not provide a signed neighbor agreement, this Use Permit process and the associated noticing meets the requirements to allow for a fence up to seven feet high.

**Expected Impact on the Surroundings:** There are two potential impacts to consider, the impact on the neighbor to the north and to the surrounding neighborhood. Constructing up to a seven foot high fence along the rear (northern) property line would allow for greater privacy between the neighboring properties. Increasing the height of the reducible front yard fence

to seven and a half foot high would have a minor visual impact on the neighborhood as there are similar types of reducible front yard fences within a two-block radius.

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**Fiscal Impact**

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No fiscal impacts other than normal fees and taxes are expected.

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**Public Contact**

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Staff has not received any comments on the proposed construction of a higher fence.

Notice of Public Hearing	Staff Report	Agenda
<ul style="list-style-type: none"><li>• Published in the <i>Sun</i> newspaper</li><li>• Posted on the site</li><li>• 11 notices mailed to adjacent property owners and residents of the project site</li></ul>	<ul style="list-style-type: none"><li>• Posted on the City of Sunnyvale's Website</li><li>• Provided at the Reference Section of the City of Sunnyvale's Public Library</li></ul>	<ul style="list-style-type: none"><li>• Posted on the City's official notice bulletin board</li><li>• City of Sunnyvale's Website</li><li>• Recorded for SunDial</li></ul>

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**Conclusion**

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**Discussion:** The applicant had initially requested constructing an eight foot high fence along the full length of the side on the house in the reducible front yard. However, after field measurements and discussions with staff, the applicant revised the total height to be seven and a half feet high and to not extend as far into the reducible front yard as to not encroach on the Vision Triangle.

**Findings and General Plan Goals:** Staff was able to make the required Findings based on the justifications for the Use Permit. Findings and General Plan Goals are located in Attachment A.

**Conditions of Approval:** Conditions of Approval are located in Attachment B.

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**Alternatives**

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1. Approve the Use Permit with attached conditions.
2. Approve the Use Permit with modified conditions.
3. Do not approve the Use Permit.

**Recommendation**

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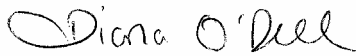
Alternative 1.

Prepared by:



Jamie McLeod  
Project Planner

Reviewed by:



Diana O'Dell  
Senior Planner

Attachments:

- A. Recommended Findings
- B. Recommended Conditions of Approval
- C. Site and Architectural Plans
- D. Letter from the Applicant

**Recommended Findings - Use Permit**

Goals and Policies that relate to this project are:

Single Family Design Techniques 3.11.G ...*Side fencing may be solid wood boards, but open lattice work segments at the top of the wall are softer in appearance and encouraged....However, when privacy is at issue, fences should be constructed of wood up to a maximum height of six feet with at least the top twelve inches constructed of wood lattice to soften the visual appearance of the fence top. Chain link fencing is strongly discouraged.*

For this application, staff considers the proposed fence as six foot in height. This assumes the resident's perspective on the fence with the additional height accommodating the change in elevation from the rear yard to the top of the nearest curb.

1. The proposed use attains the objectives and purposes of the General Plan of the City of Sunnyvale as the project will meet the Single Family Home Design Techniques by implementing the conditions of approval to provide an appropriate cap or finish to the extension and will provide for privacy while maintaining a compatible design for its varying height.
2. The proposed use is desirable, and will not be materially detrimental to the public welfare or injurious to the property, improvements or uses within the immediate vicinity and within the Zoning District because the modified fencing design is compatible with the existing fencing on the site and neighborhood and is an appropriate residential design and height for single family residential.

**Recommended Conditions of Approval - Use Permit**

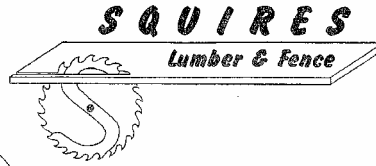
In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following conditions of approval of this Permit:

1. Project shall be in conformance with the plans approved at the public hearing. Minor changes may be approved by the Director of Community Development, major changes may be approved at a public hearing.
2. The Conditions of Approval shall be reproduced on the plans submitted for a Building permit for this project.
3. The Use Permit shall be valid for one year from the date of approval by the final review authority at a public hearing if the approval is not exercised, unless a written request for an extension is received prior to expiration date.
4. Obtain a Building Permit for fence. The Building Permit will include the requirement for a retaining wall to support the grade differential.
5. Design and materials of the proposed fence shall be built in accordance with the submitted plans, including wood construction with one foot of lattice along the top of the fence; any changes are subject to the review and approval by the Director of Community Development.
6. Chain link and barbed wire fences are not allowed in residential areas.
7. The reducible front yard section of the proposed fence shall be constructed on the applicant's property, at least 11 feet from the face of the curb.
8. The fence shall not extend into the 40 foot Vision Triangle. Only fences, hedges and shrubs or other natural objects 3 feet or less in height may be located within a Vision Triangle. The proposed length of the reducible front yard fence shall be reduced to meet this requirement.
9. Along the reducible front yard, the height of the fence shall not exceed seven and one-half feet when measured from face of the nearest curb, which is an effective height of six feet when measured from the applicant's yard.
10. Along the rear property line, the height of the fence shall not exceed seven feet when measured from the height of the finished grade.



809 North 13th Street  
San Jose, CA 95112

Contractor's License  
#567277

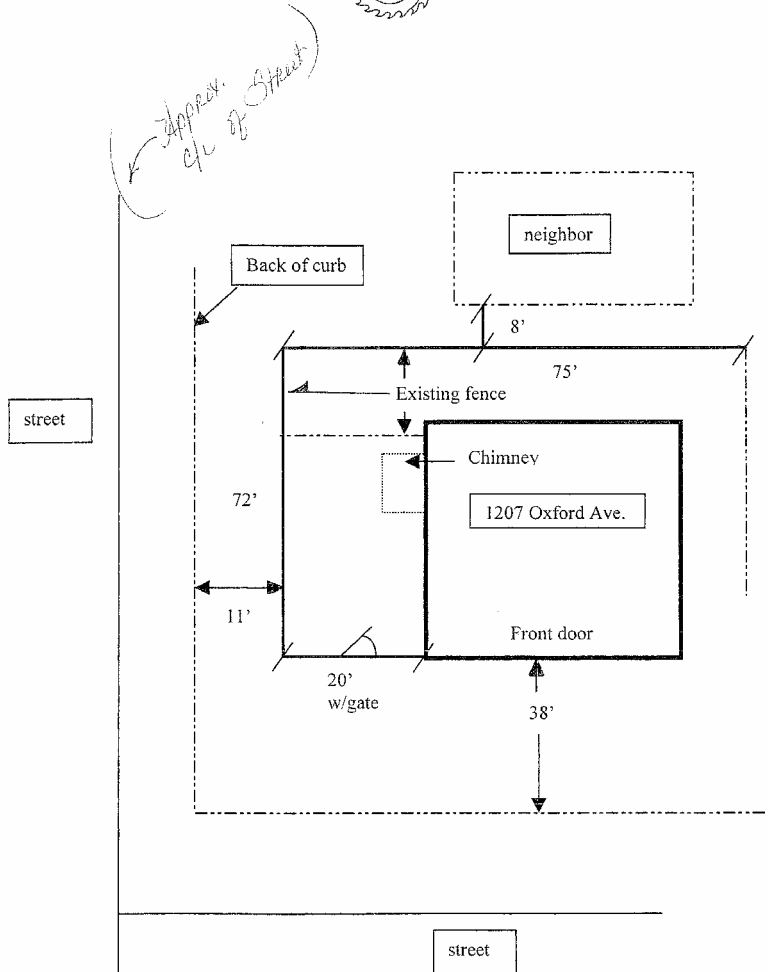


ATTACHMENT C

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Tel: (408) 971-WOOD  
(971-9663)

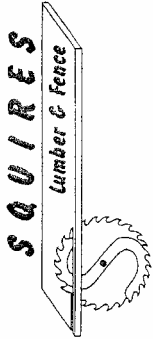
Fax: (408) 27-LOGGER  
(275-6443)



Francis Acquistapace  
1207 Oxford Ave.  
Sunnyvale, Ca. 94087

DRAWING IS NOT TO SCALE

55-L  
 809 North 13th Street  
 San Jose, CA 95112  
 Contractor's License  
 #567277



Tel: (408) 971-WOOD  
 (971-9663)  
 Fax: (408) 27-LOGGER  
 (275-6443)

# BOARD on BOARD With LATTICE

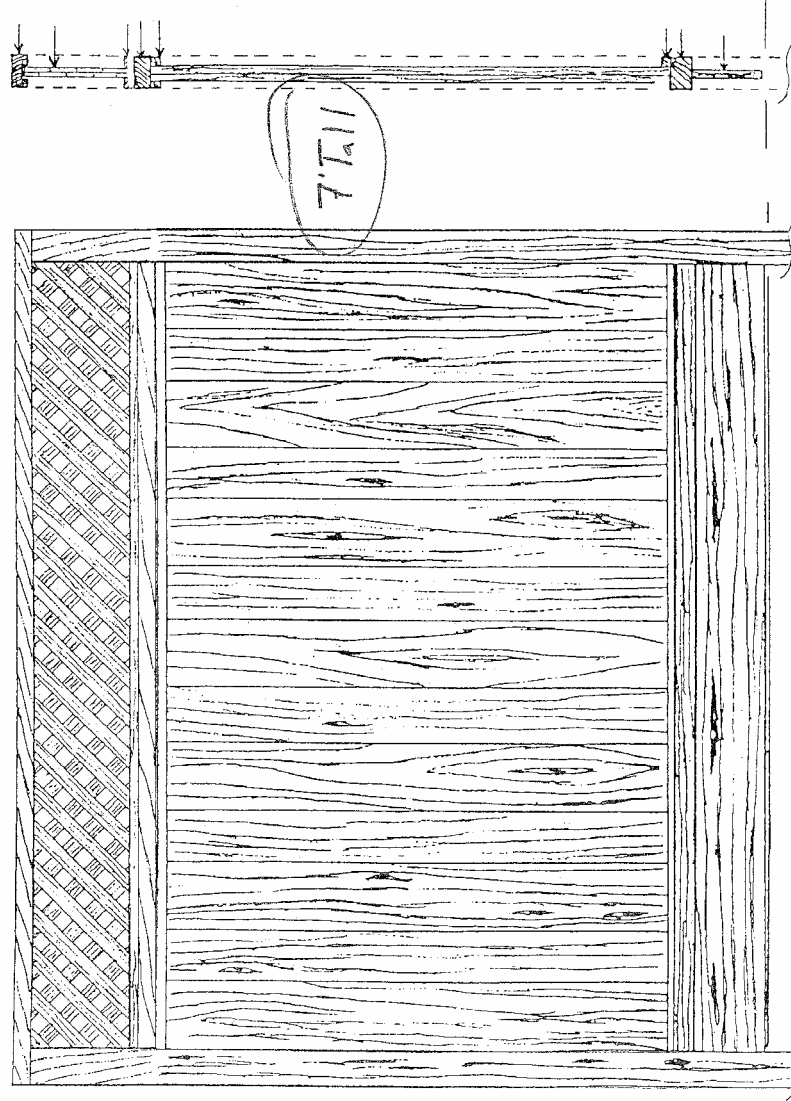
Scale 3/4" = 1'



- 2 x 4 Top Cap
- Lattice Panel
- 1 x 1 Cleats, Each Side
- 2 x 4 Top Rail
- 1 x 1 Cleats, Each Side

- 1 x 8 Vertical Boards  
 Board on Board

- 1 x 1 Cleat, One Side
- 2 x 4 Bottom Rail
- 4 x 8 Kickboard
- GRADE



**USE PERMIT JUSTIFICATIONS**

The Municipal Code states that at least one of the following two justifications must be met before granting the Use Permit. Illustrating how your project meets at least one of the below criteria will assist the City in reviewing your proposal. Use this sheet or a separate sheet of paper to show how the proposed use:

- 1) attains the objectives and purposes of the General Plan of the City of Sunnyvale,

or --

- 2) is desirable and not materially detrimental to the public welfare or injurious to the property, improvements or uses within the immediate vicinity and within the zoning district.

The way that the land slopes makes the fence 2 feet shorter from the inside of the back yard. An 8 foot fence is the only way to allow privacy while in the back yard, because it stands only 6 feet tall from the yard. There are many 8 foot fences in the neighborhood, therefore will "fit-in" with the look of the neighborhood.

If you need assistance in answering either of these justifications, contact the Planning Division staff at the One-Stop Permit Center.